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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,373	07/27/2001	Charles Matthew Erwin	406	7623

7590

04/01/2004

CIENA Corporation  
Legal Department  
1201 Winterson Road  
Linthicum, MD 21090

EXAMINER

TRINH, MINH N

ART UNIT PAPER NUMBER

3729

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/916,373

Applicant(s)

ERWIN, CHARLES MATTHEW

Examiner

Minh Trinh

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☐ Claim(s) 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Receipt is acknowledged of the "conditional" request for RCE application is acceptable and a RCE has been established. An action on the CPA follows.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Korkowski et al (US 5,363,465).

Korkowski et al disclose an apparatus for facilitating the servicing of a telecommunications device as claimed by the present invention comprising: at least a catch basin module 14 insertable into a slot in the communication device 10 (see Fig. 2), wherein the catch basin module having a window and a lip adapted for receiving connectors 48's (as shown in Fig. 3) and at least one of the electronic modules 14 (see Fig. 2). Noted that a rim portion of the opening or window that being configured to received connector 48 as shown in Fig. 2 of Korkowski et al is broadly readable as "the window including a lip " as claimed by the present application.

Furthermore, the term "lip" as defined by The Webster's Dictionary, Third College Edition as a structure that encircles or bounds an orifice as a rim that read on the window including a lip as claimed by the present application (see Attached).

***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 102(b) as the discussion above or in an alternative, under 35 U.S.C. 103(a) as obvious over Korkowski et al.

In the alternative, if it is argued that Korkowski et al does not teach the window including a lip and being configured to receive the pin connectors. It would have been an obvious matter of design choice to choose any desired receiving window or opening that having at least a lip portions since applicant has not disclosed that these features are critical, patentably distinguishing features and it appears that the invention would perform equally well with the window or opening configurations as shown in the prior art reference (see Fig. 3 of Korkowski et al depicts at least a window being configured to receive connectors 48 and the window having a lip portion that surrounding the window or opening thereof).

***Allowable Subject Matter***

6. Claims 1-9 are allowed for the reasons set forth in prior Office Action (see Paper No. 8, paragraph 7).

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***Prior Art References***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art references are cited for their teaching of method of manufacturing surface acoustic wave devices.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (703) 305-2887. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7307 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Minh Trinh  
Patent Examiner Group 3729

mt  
March 23, 2004